

**WILKINSON, BARKER, KNAUER & QUINN, LLP**

Washington, DC  
Frankfurt, Germany

2300 N Street, NW  
Washington, DC 20037-1128

telephone: 202.783.4141  
facsimile: 202.783.5851

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February 12, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA HAND DELIVERY**

Magalie R. Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

Re: Amendment of the Commission's Rules to Permit Flexible  
Service Offerings in the Commercial Mobile Radio Services  
CC Docket 96-6 - Ex Parte

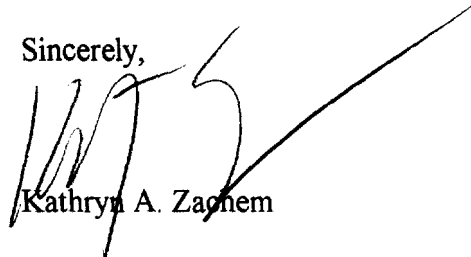
Dear Ms. Salas:

Yesterday, Julia Kane, Laurie Bennett and Elridge Stafford of U S WEST and the undersigned met with Peter Tenhula, Office of Commissioner Powell, to discuss the above-referenced proceeding. Attached are handouts that were the basis for discussion at this meeting.

In accordance with Commission Rule 1.1206(a)(2), an original and one copy of this letter and the attachments are being filed with your office for inclusion in the public record.

Please call if you have any questions.

Sincerely,



Kathryn A. Zachem

Attachments

cc: Peter Tenhula

**U S WEST, Inc.**

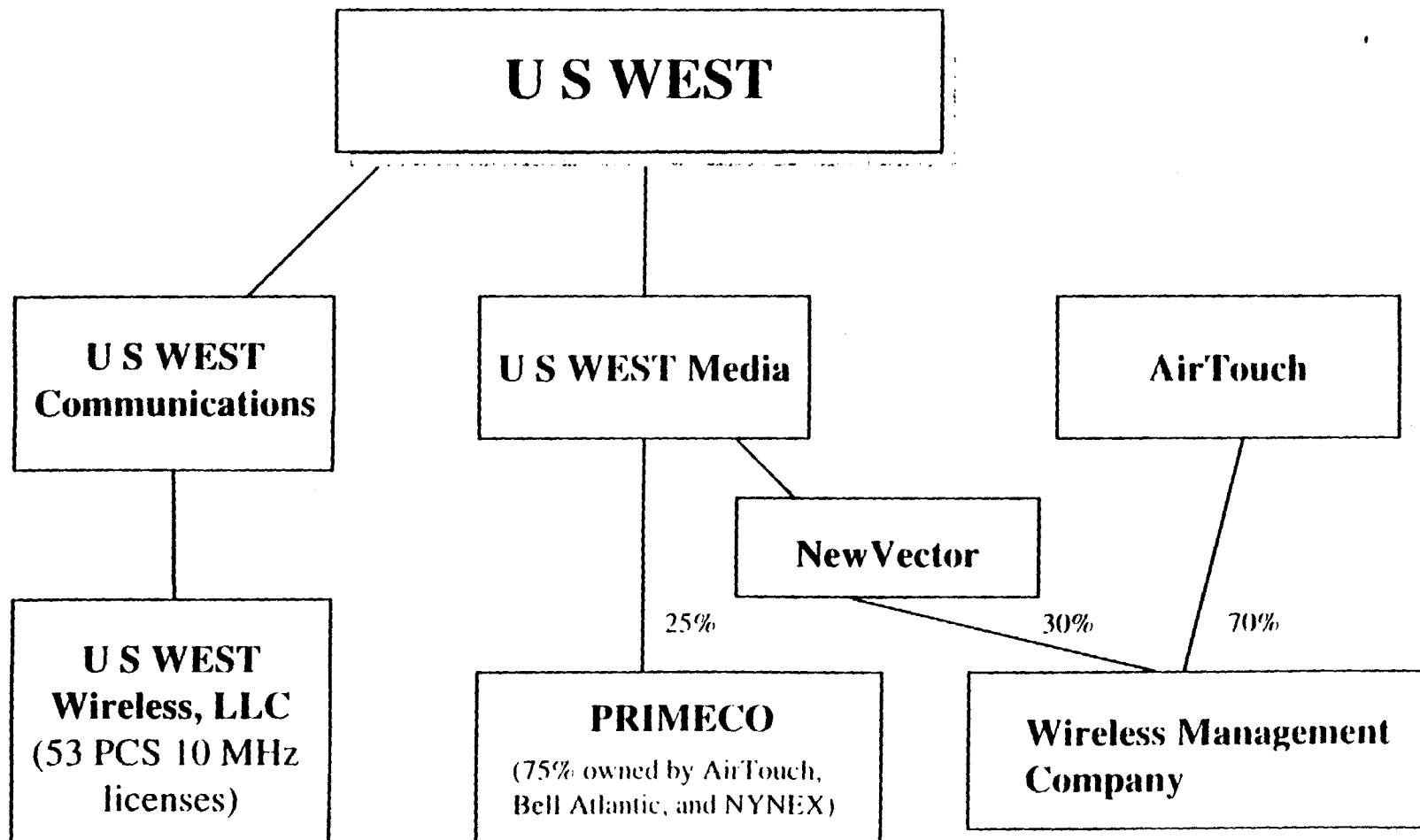
**FCC Presentation**

**WT Docket No. 96-6**

**(Flexible/Fixed Service Offerings in CMRS)**

**February 11, 1998**

## **PRESENT CORPORATE STRUCTURE**



### **Regulatory Distinctions Between Fixed and Mobile are not Workable**

- “Fixed” or “Mobile” distinctions are illusory - regulatory classifications should not be based upon amorphous distinctions.
- Wireless handsets are being designed to look like traditional home or office CPE (e.g., Qualcomm) as additional customer options. These phones should be viewed from a regulatory perspective as what they are — portable wireless devices which operate off of a wireless network.
- Marketing characterization of these devices as “fixed” offerings is inaccurate and should be irrelevant to regulatory classification.
- Ambiguous regulatory definitions would lead to irrational behavior.
- Engineering and marketing contortions to avoid added regulation would not be conducive to full realization of the potential for wireless services.

## **Congress Anticipated Inclusion of Fixed Wireless Services Within the Definition of CMRS**

(1 of 2)

- The FCC has full authority to classify all fixed wireless services offered by CMRS providers as CMRS.
  - Section 332(c) of the Act preempts state jurisdiction over CMRS; states are able to petition FCC for authority to regulate CMRS only when CMRS becomes a replacement for landline service for a “substantial portion” of a particular state.
  - Along with its adoption of a federal statutory scheme for CMRS regulation, Congress broadened the definition of mobile service in a manner which clearly anticipates that fixed services would be regulated as CMRS.
    - The Conference Committee considered and rejected a Senate proposal to exclude certain fixed services from the definition of mobile service. 1993 U.S.C.C.A.N. 378, 1186.
    - Congress amended the definition of mobile service to include “any service for which a license is required in a [PCS] service established pursuant to the [FCC’s then-existing PCS Docket], or any successor proceeding.” The FCC had already announced that PCS was intended to include a variety of fixed services including: “wireless PBX services, and wireless local area network services, among others.” 8 F.C.C. R. 7700, 7712 (1993).

## **Congress Anticipated Inclusion of Fixed Wireless Services Within the Definition of CMRS**

(2 of 2)

- Section 332 was amended by Congress in 1993 to ensure that development of wireless services would not be stifled by regulatory impediments.
- Telecom Act of 1996 was enacted to promote local exchange competition. The 1996 Act expressly preserved the deregulatory provisions of Section 332 (Sections 253(e) and 601(c)(1)).
- Removing fixed wireless services from “CMRS” would thwart these deregulatory, pro-competitive national policy objectives.
- The FCC’s Order in this Docket will determine the viability of fixed wireless service as a competitive alternative to wired services.
- The specter of added regulations will have a chilling effect on the development of wireless alternatives to landline exchange services.